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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/845,486	04/30/2001	Joshua Bers	00-4064	2345

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EXAMINER

AGDEPPA, HECTOR A

ART UNIT	PAPER NUMBER
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2642

DATE MAILED: 04/05/2004

*A*

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/845,486

**Applicant(s)**

BERS ET AL.

**Examiner**

Hector A. Agdeppa

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1 – 17 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,812,638 (Muller).

As to claims 1, 3, 9, 12, and 34, Muller teaches a system and method wherein an incoming call is received at a call center/directory assistance facility and the caller is prompted with a prompting device 24 to provide audio input relating to the purpose for the call. The audio input is recorded by recording device 22 and the recording is provided to an operator/agent for servicing once the recording has been heard by the operator/agent. If no operator/agent is immediately available, the incoming call is put into a queue, and the audio input is stored. Once an operator/agent becomes available, the audio input is provided and the incoming call connected. (Fig. 2, Abstract, Col. 1, lines 49 – 59, Col. 4, line 11 – Col. 5, line 27)

As to claims 2 and 11, call processing system 10 includes a queuing system 28 which may be included in a switch. (Col. 5, lines 20 – 27) Moreover, any system that can receive an incoming call has a switching device of some sort that actually receives the call. There is no other way to receive a telephony call.

As to claims 4 and 13, see the rejection of claim 1 and note that the prompting device 24 and recording device 22 may be incorporated into an automated directory assistance system (ADAS) comprises a voice response device. Moreover, Muller teaches that a switch may be used to connect an operator/agent to the incoming call in the queue. Therefore, because, as seen in Fig. 2, recording device 22 and prompter 24 are elements separate from the queuing system 28, it is inherent that the incoming call is moved/transferred among those elements.

As to claims 5 and 14, it is inherent that some call identifier is associated with the call. Because the recording may be stored, the only way to relay both the queued incoming call and the recording to the operator/agent together, at the right time, is to use some identifier to associate the call and the recording.

As to claims 6, 10, and 15, again, such a limitation is inherent in Muller's and any system that uses a queue to regulate the connection of an incoming call to an available agent. There would be no way to send a queued call to an available agent without that agent or that agent's availability being known and received by the call processor/router which performs the call connection. Moreover, it is inherent that some server or some element having server functionality to act as the call processor/router. Even if that element is just the switch discussed above, the switch reads on the claimed generic server with call routing functionality.

As to claims 7 and 16, Muller teaches that the information requested from a caller is not only the reason for the call such as a directory assistance query, i.e., a telephone

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number, but also can glean, for example, a language preference and a certain department requested. (Col. 4, lines 35 – 47)

As to claims 8 and 17, Muller teaches that the operator/agent receives the audio input at a device 26 which can perform speech recognition, has a display device 44, among other features. (Col. 5, lines 28 – 67)

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 18 – 33 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,812,638 (Muller).

As to claims 18, 19, 23, 28, 30 and 31, see the above rejection of claims 1 and 4.

Muller has been discussed above, but what Muller does not teach is a call center that uses conferencing or forwarding to connect calls to available operators/agents.

However, many methods of connecting a caller to an operator/agent are known and commonly used methods are that of conferencing and forwarding. A call center/directory assistance system are also well known as being implemented in a plurality of different environments because the act of connecting a caller to an agent can be thought of as a conference or as being received by the call center and then being forwarded to an actual agent.

It would have been obvious for one of ordinary skill in the art at the time the invention was made to have implemented the call processing system of Muller in these various ways because they are all, as discussed, well known and commonly used. Moreover, the Muller reference itself, recognizes this and teaches that any number of convention means may be used to connect the caller to the operator/agent. Such was not discussed in Muller because transferring, sending, conferencing/initiating a separate call, forwarding calls in a call center is so old and well known, all being viable options/methods. (Col. 8, lines 37 – 44)

As to claims 20 and 29, see the rejection of claims 1 and 4.

As to claims 21, 24, 32, 33, and 35, Muller teaches that the system 10 will alter/manipulate the timing of the audio input recording to match the time it takes the operator/agent to listen/process the recorded information with the time it takes to play a generic/pre-recorded message to the caller so that the caller experiences no dead time

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in optimal conditions. (Abstract, Col. 5, line 45 – Col. 8, line 36) Effectively, the need for an acknowledgement in the system of Muller is erased or interpreted differently, the acknowledge is integrated into the above-discussed timing feature.

However, the above teachings of Muller are merely a choice to present a user-friendly interface to a caller and such is merely a design choice or preference. It would have been at the least, obvious, to one of ordinary skill in the art at the time the invention was made to have required some acknowledgement that the audio input was heard. The motivation is clear in that there would be no purpose to connecting the caller to the operator/agent before they had heard the recorded audio input, or the very purpose of the invention would be defeated.

Also, as discussed above, conferencing and forwarding, initiating calls, etc. would have been obvious. In terms of conferencing, of course to connect the operator/agent to the caller after hearing the recorded audio input is to “bridge” the call.

As to claims 22 and 25, as per standard conference calls, the initial connection, which in this case, would be the call at the prompting device 24 and recorder 22, is dropped once the call is bridged between conference participants, i.e., the caller and operator/agent. There is no need for the connection any longer and is a waste of resources besides being the standard method of operation in conference calling.

As to claim 26, that the incoming call is from the PSTN is inherent or at the least obvious. Muller does not specify that the invention is only to be used in a closed environment such as a PBX. In fact, Muller teaches that any caller can call in and

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request directory assistance for any city or location which means the callers are at least in some part of the leg, calling from the PSTN. (See the above noted portions of Muller)

See the rejection of claims 18, 19, 23, 28, 30 and 31 and note that as discussed, any of a plurality of well known methods of call connection are contemplated by Muller and especially in the case of call conferencing, it is inherent that the PSTN is used inasmuch as conferencing systems do not merely operate in a closed environment. The purpose of conferencing is to connect parties from disparate networks, locations, etc. The only common network allowing for this connectivity is of course, the PSTN.

Another motivation for using the PSTN is if remote operators/agents were to be employed. Providing a dedicated connection from the call center/directory assistance center to a remote operator/agent is very costly and many systems merely use the PSTN.

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 6,614,885 (Polcyn) teaches a system and method for operating an interactive voice response system allowing for the recording of caller-generated, audio input. US 6,263,066 (Shtivelman et al.) teaches a multimedia managing and prioritized queuing system integrated with intelligent routing capability, that also teaches caller-generated audio input recording. US 4,150,255 (Theis et al.) teaches a conversational telephone call distributor that allows for the recording of caller-generated audio input.




4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hector A. Agdeppa whose telephone number is 703-305-1844. The examiner can normally be reached on Mon thru Fri 9:30am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad F. Matar can be reached on 703-305-4731. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

H.A.A.  
March 25, 2004

  
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